SINGAPORE REPORTS

LIM HONG YAP v. PUBLIC PROSECUTOR

[C.C.A. (Wee Chong Jin C.J., Chua and Rajah JJ.) January 16, 1978]

[Singapore — Criminal Appeal No. 21 of 1976]

Misuse of Drugs — Trafficking in controlled drug — Diamorphine — Evidence of government chemist — Misuse of Drugs Act, 1973, ss. 2, 3(a) and 29.

Criminal Law and Procedure — Charge — Form — Particulars — Manner of committing offence — Effect of errors — Criminal Procedure Code (Cap. 113), ss. 151, 152 (1), 153 and 155.

Evidence — Written statements made close to time of event — Whether witnesses may see — Failure of prosecution to inform defence — Weight to be attached.

The appellant was convicted in the High Court for an offence of trafficking in diamorphine (heroin) under section 3(a) of the Misuse of Drugs Act. The evidence on which he was convicted consisted of eye-witnesses' account by Central Narcotics Bureau officers who saw the appellant carry a bag from a house in which he was living to a provision shop. This bag after it was seized by the officers was found to contain a substance with a total diamorphine weight content of 1032.7 grammes in 214 plastic packets which was the subject matter of the charge. The appellant thereafter led the officers to the house where he produced a briefcase from which the officers seized 3 plastic packets which contained a substance with a total diamorphine weight content of 11.84 grammes. The briefcase also contained his passport. Soon after his arrest the appellant made a cautioned statement to an Assistant Director through the interpretation of another officer of the Bureau which was also admitted in evidence. In the course of the trial, his counsel elicited from the Bureau Officer that they had been given copies of their statements and had sight of the evidence they had given at the preliminary inquiry. Evidence of the diamorphine weight content of the substance seized was given by a government chemist. The appellant contended before the appellate court *inter alia*, that —

(a) the evidence of the government chemist as to the substance and the weight content of the 214 plastic packets seized should not be accepted;

(b) the charge was defective in that it merely alleged the appellant trafficked in diamorphine without stipulating the manner of trafficking whereas section 2 of the Act set out a variety of ways trafficking could be carried out;

(c) the trial judges erred in failing to recognise that the evidence of the Bureau Officers was based on written statements made long after the event;

(d) the admission in evidence of the 3 plastic packets of diamorphine found in the appellant's briefcase was wrong in that it was prejudicial to the appellant.

Held: (1) the appellant had access to samples of the substance seized before the trial commenced for independent analysis but no evidence was led by the defence except for the mere reliance on cross-examination of the government chemist. From a consideration of the tests conducted the trial judges could have come to no other conclusion that there was diamorphine present weighing 1032.7 grammes;

(2) the charge fulfilled the requirements of sections 151 and 152(1) of the Criminal Procedure Code and gave the accused sufficient notice of the matter with which he was charged. Section 153 of the Code only applied when the accused did not have notice of the matter with which he was charged in which case the charge must contain the particulars of the manner in which the offence was committed. In any event if there were insufficient particulars the omission could not, in terms of section 155 of the Code, be regarded as material unless it was shown by the appellant that he had in fact been misled by the omission which had not been done here;

(3) following *R.* v. *Richardson*,[1] there can be no general rule that witnesses may not before trial see their statements made at some period reasonably close to the time of the event. In cases where the witnesses are police or narcotic officers whose daily duties consist of investigations such a rule would militate greatly against the interests of justice. The fact that the prosecution failed to inform the defence before the trial commenced that the officers had seen their statements was no bar to conviction as the defence knew before the conclusion of the prosecution case that this had been done and the defence could have made whatever points they wanted to as to the weight to be attached to this fact;

(4) the evidence regarding the 3 plastic packets of diamorphine was admissible as relevant evidence.

Cases referred to:-

(1) *R.* v. *Richardson* [1971] 2 All E.R. 774.

(2) *R.* v. *Westwell* [1976] 2 All E.R. 812.

COURT OF CRIMINAL APPEAL.

Datuk David Marshall for the appellant.

Glenn J. Knight (*R.G. Neighbour* with him) for the Public Prosecutor.

Wee Chong Jin C.J. (delivering the judgment of the Court): The appellant Lim Hong Yap was convicted by the High Court on the following charge: —

"That you, Lim Hong Yap, are hereby charged that you on or about the 22nd day of January 1976 at about 8.45 a.m. at 171 Upper Paya Lebar Road, Singapore, did traffic in a controlled drug specified in Class A of the First Schedule of the Misuse of Drugs Act, 1973, to wit, 1032.7 grammes of diamorphine (heroin) without authorisation under the said Act or the regulations made thereunder and thereby committed an offence under section 3(a) and punishable under section 29 of the Misuse of Drugs Act, 1973."

At the trial the prosecution led evidence that a team of Narcotics Officers, as a result of information received, kept surveillance on premises No. 39 Lorong Paya Lebar and its vicinity. At about 8.35 a.m. on January 22, 1976 two of the team, Ag. Senior Narcotics Officer Teo and Ag. Senior Narcotics Officer Yeoh saw the appellant coming out of No. 39 Lorong Paya Lebar carrying a parcel in a yellow netted bag. They followed the appellant who walked along Lorong Paya Lebar into Upper Paya Lebar Road where he entered a provision shop known as Hua Tiang, No. 171 Upper Paya Lebar Road. They saw the appellant place the parcel he was carrying on the top of a show case in the provision shop. They saw him talking to a male Chinese who turned out to be the proprietor by the name of Wang. They saw no one else in the shop at that time. They saw the appellant picking up a tin of lychees from a shelf and placing it beside the parcel on the top of the show case. The appellant then returned to No. 39 Lorong Paya Lebar with Teo following him while Yeoh remained in the vicinity of the provision shop to keep watch on the parcel.

A few minutes after returning to No. 39 Lorong Paya Lebar the appellant came out of the house and walked towards Upper Paya Lebar Road with Teo following about 30-50 feet behind. The appellant noticed he was being followed and started running. Teo chased him, caught up with him, and, after a violent struggle, eventually overpowered and handcuffed the appellant and brought him to the provision shop where Yeoh joined them. At the provision shop, Wang the proprietor identified the appellant as the person who had earlier on left the parcel on top of the show case. Teo seized the parcel and they then left the provision shop and proceeded to No. 39 Lorong Paya Lebar. Before they arrived there the

appellant told Teo and Yeoh that he had seen a person whose name he gave as Loh Kah place a large quantity of heroin in a school at Aljunied Road. On being told this, Teo instructed Yeoh to keep watch on No. 39 Lorong Paya Lebar and he took the appellant to where his office car was parked where he met Ag. Narcotics Officer Lio who was looking after the car. The three of them proceeded in the car to the school at Aljunied Road where on arrival the appellant led the narcotics officers to a bush. A search proved fruitless and so they returned to Lorong Paya Lebar and the three officers, Teo, Yeoh and Lio entered No. 39 Lorong Paya Lebar with the appellant who led Teo to his room on the first floor of the house. In the room the appellant pointed to a briefcase which was found to contain, *inter alia*, the appellant's passport and three packets containing some brownish substance which Teo suspected to be heroin.

Teo thereupon seized the briefcase and its contents and eventually the appellant was taken to the Central Narcotics Bureau where the Assistant Director, Ronald Naidu, charged the appellant with trafficking in a controlled drug. After the charge was read and explained to the appellant and after he had been duly cautioned the appellant made a statement to Ronald Naidu in answer to the charge. As the appellant was not English educated Senior Narcotics Officer Lee Tai Huat acted as interpreter. His cautioned statement as recorded reads as follows: —

"The drugs that were seized this morning actually belong to one Loh Kah who is also known as Ah Heng. This morning I placed the bag containing the heroin at a provision store along Upper Paya Lebar Road. I was instructed by Loh Kah to leave the bag of heroin at this store. He told me that some strangers were watching his house and they had the appearance of police officers. He did not want the bag of heroin to be in the house for fear the house might be raided and he gave me instructions to place the bag of heroin on the counter of the provision store at Upper Paya Lebar Road. I did what he told me to do. That is all I wish to state."

The parcel inside the yellow netted bag which was left in the provision shop was found to contain 214 plastic packets of a substance which had the appearance of diamorphine hydrochloride. The total weight of the substance in the 214 plastic packets was 2700 grams. On analysis the total diamorphine content of the 2700 grams of the solids was found to be 1032.7 grams as stated in the charge. The three packets found in the appellant's briefcase contained a substance which weighed 31.76 grams. On analysis this substance was found to have a total diamorphine content of 11.84 grams.

The defence objected to the admission in evidence of the cautioned statement and also objected to the admission in evidence of the three packets as containing 11.84 grams of diamorphine. With regard to the cautioned statement the submission was that it was not a voluntary statement because it had been obtained under duress. After a trial within a trial this objection was rejected. With regard to the three packets found in the appellant's briefcase the submission was that all evidence relating to it was prejudicial as the appellant was not charged with any offence in relation to the contents of these three packets. This objection was also rejected on the ground that when a person is charged with trafficking in heroin, any heroin found on his person or in his possession is relevant evidence.

The appellant raised two main defences at the trial. He denied on oath that when he came out of No. 39 Lorong Paya Lebar on the morning of January 22, 1976 he was carrying the parcel in a yellow netted bag. He said that after leaving the house that morning he was arrested in Upper Paya Lebar Road, not by Teo, but by two other persons who handcuffed him, searched him and eventually took him in a car to the house where he was assaulted and asked questions about Loh Kah. He told them that Loh Kah had a friend who lived somewhere near a school in Aljunied Road and thereupon they took him to Aljunied Road to look for Loh Kah's friend. When they could not find this person they took him to a field where they again assaulted him and then took him to the provision shop where Wang, the proprietor, in their presence said he could not recognise the appellant. They then returned with him to the house and subsequently they took him to the Central Narcotics Bureau where Teo gave him heroin to smoke and asked him to whom Loh Kah was giving the heroin. When he said he did not know he was again assaulted and left in the room for four hours before he made the statement without being first cautioned. Wang gave evidence for the defence. He said that at about 8.00 a.m. on January 22, 1976 he was alone tying up some parcels at the rear of his shop with his back to the front when he felt someone had entered the shop. When he turned around he saw the back of that person leaving the shop. He said he did not know who left the parcel inside the yellow netted bag on the show case.

The other main defence was that the prosecution had failed to prove the presence of diamorphine in the substance contained in the 214 plastic packets and had also failed to prove the quantity of diamorphine present in that substance. This contention depended upon the evaluation of the evidence of Mr. Lim Han Yong, a Government chemist attached to the Department of Scientific Studies and the acceptance as correct and accurate of his report which was admitted in evidence and which reads as follows: —

"I found the content of the exhibit to be as follows:—

RN-1 . . One paper parcel containing the following:

(i) Fourteen envelopes each containing 10 packets of light brown solids which I analysed and found to contain diamorphine hydrochloride (heroin hydrochloride). I found the 140 packets of solids to weigh a total of 1773 grams. On further analysis, I found the solids to have an average diamorphine content of 39.0 per cent weight by weight. The total diamorphine content of these solids is therefore 691.4 grams. After analysis the remaining solids were put into a plastic bag and marked 'RN1';

(ii) Six envelopes each containing 10 packets of purplish brown solids, one envelope containing 9 packets of purplish brown solids and one paper packet containing 5 packets of purplish brown solids which I analysed and found to contain diamorphine hydrochloride (heroin hydrochloride). I found the 74 packets of solids to weigh a total of 930.0 grams. On further analysis, I found the solids to have an average diamorphine content of 36.7 per cent weight by weight. The total diamorphine content of this exhibit is therefore 341.3 grams. After analysis the remaining solids were put into a plastic bag and marked 'RN-1'.

Diamorphine hydrochloride is a salt of diamorphine and is therefore a Class A controlled drug listed in the First Schedule of the Misuse of Drugs Act. 1973."

With regard to the defence relating to the presence and quantity of diamorphine in the substance contained in the 214 plastic packets the defence obtained, before the trial commenced, some of that substance to enable it to be independently analysed by another expert. However, at the trial the defence did not call any expert witness as to whether or not the substance contained diamorphine or, if so, the diamorphine content thereof. The defence relied entirely on cross-examining the prosecution expert, Mr. Lim Han Yong, to show that his report on the total diamorphine of the substance contained in the 214 plastic packets ought not to be accepted as proof that diamorphine was present in the substance or, if present, that its diamorphine content totalled 1032.7 grams in weight.

The trial judges, with regard to this defence, said at page 19 of their Grounds of Decision: —

"Mr. Lim Han Yong, the Government Chemist, was cross-examined at great length by counsel for the accused at the end of which counsel submitted that the tests carried out by Mr. Lim were novel and unreliable and that the court should not therefore act on his evidence. We rejected this submission because it was groundless. We were satisfied with the qualifications, competence and integrity of Mr. Lim and further satisfied that the tests he carried out were correct and reliable and we therefore accepted his evidence."

Before us counsel for the appellant raises several points. One contention is that the trial judges failed to recognise that the tests used to support the expert's report were far from being adequately probative of the presence of diamorphine and still less of the quantity thereof. The evidence of the expert was that four groups of tests were conducted. The first test is known as the Marquis Test which is a colour test and if one of the narcotic drugs is present a violetish purple colour can be observed. In the present case the result was positive. The next test that was conducted is known as the Ferric Chloride Test. It is also a colour test. If diamorphine, which is commonly known as heroin, is present in the substance so tested there is no change in colour. In the present case the substance when tested did not change in colour and thus the presence of diamorphine is suggested. The third test that was conducted is a Salt Test to test for the presence or otherwise of chloride. If a whitish precipitate is observed then the presence of a chloride is indicated and, if the substance itself is soluble in water, it would also indicate the presence of a salt with diamorphine hydrochloride. In the present case the result was also positive. The fourth test that was conducted is known as the Paper Chromatography Test which is a test for the detection of narcotic drugs. Again this test produced a positive result. The expert's evidence was that after the four abovementioned tests there is an extremely strong possibility that diamorphine is present in the substance found in the 214 plastic packets.

The next two tests conducted were the Nitrite Colour Test and the Liquid Gas Chromatography Test. The expert's evidence was that the Nitrite Colour Test, if positive, would indicate the possible presence of diamorphine and, if considered in conjunction with positive results from the Paper Chromatography and the Colour Tests, he would say that diamorphine has been identified as being present in the substance so tested. It was also the expert's evidence that the Nitrite Colour Test is also a test to measure the quantity of diamorphine, if present, in the test sample. In the case of the Nitrite Colour Test a positive result indicating the presence of diamorphine was obtained. Using this test the quantity of diamorphine present was also calculated from a standard calibration graph.

The final test conducted was the Liquid Gas Chromatography Test. The expert's evidence was that this test by itself is a specific test and that it could be regarded as more than 96% reliable and accurate because in all statistical methods of calculation one could not be able to say it is absolutely accurate. His evidence was that in relation to the quantity of diamorphine present, the results from the Nitrite Colour Test and the Liquid Gas Chromatography Test were in close agreement with each other. The expert, after lengthy cross-examination, categorically said that he had no doubts after taking into consideration the results of all the tests that were conducted that the quantity of diamorphine present in the 214 plastic packets was, as stated in his report, 1032.7 grams.

In our judgment, the trial judges were entitled to find, and indeed could come to no other conclusion, that the substance found in these plastic packets contained diamorphine and that the diamorphine present in that substance weighed 1032.7 grams as set out in the charge. The defence called no evidence to challenge the evidence of Mr. Lim Han Yong nor was his competence as an expert witness called in question. The only challenge was that the Liquid Gas Chromatography Test that was in fact conducted was not a universally recognised and accepted test to measure the quantity of diamorphine present in a substance that was subjected to that test. It was, however, unquestioned that the latest recognised and accepted method for the quantification of diamorphine which has been identified as being present in a substance is the Liquid Gas Chromatography Test. The only difference between the method used in the present case and the accepted method lies in the use of chemically unrelated (to diamorphine) agents as internal standards in the accepted method and the use of codeine, which is structurally related to diamorphine, as an internal standard in the present case. We are unable to say merely from the arguments advanced on behalf of the appellant before us that the prosecution had failed to prove the quantity of diamorphine present in the 214 plastic packets.

Another contention raised before us is that the trial judges were wrong in refusing the defence request for adequate particularisation of the charge against the appellant. This contention is based on the definition of "traffic" in the Misuse of Drugs Act, 1973. "Traffic" is defined thus in section 2 of the Act: —

"Section 2. In this Act, unless the context otherwise requires —

'traffic' means —

(a) to sell, give, administer, transport, send, deliver or distribute; or

(b) to offer to do anything mentioned in paragraph (a) above, otherwise than under the authority of this Act or the regulations made thereunder; and 'trafficking' has a corresponding meaning."

The submission is that section 153 of the Criminal Procedure Code makes it mandatory on the prosecution to give particulars of the manner in which the alleged offence, to traffic in a controlled drug, was committed because the charge as framed does not give the appellant sufficient notice of the matter with which he is charged by reason of the wide definition of "traffic".

The relevant sections of the Criminal Procedure Code are: —

"Section 151.—(1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

Section 152.—(1) The charge shall contain such particulars as to the time and place of the alleged offence and the person, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the accused notice of the matter with which he is charged.

Section 153. When the nature of the case is such that the particulars mentioned in sections 151 and 152 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Section 155. No error in stating either the offence or the particulars required to be stated in the charge and no omission to state the offence or those particulars shall be regarded at any stage of the case as material unless the accused was in fact misled by that error or omission."

It is clear that the charge as framed fulfilled the requirements of section 151 and section 152(1) of the Criminal Procedure Code and in our opinion the particulars contained in the charge were sufficient to give the appellant notice of the matter with which he was charged. It is to be observed that under section 153 it is only when the nature of the case is such that the particulars mentioned in sections 151 and 152 do not give an accused person sufficient notice of the *matter* with which he is charged that the charge must also contain particulars of the *manner* in which the alleged offence was committed as will be sufficient for the purpose of giving him sufficient notice of the matter with which he is charged. In any event, even if there were insufficient particulars in the charge as framed, such omission cannot, in terms of section 155, be regarded as material unless it is shown by the appellant that he had in fact been misled by such omission. No such submission has been made before us on his behalf nor has it been argued that there has been a failure of justice as a result of such omission. Furthermore, in the present case it is clear from the verbatim record of the trial that he was aware of the matter with which he was charged and that he was in no way prejudiced in his defence to the charge.

Another contention raised is that the trial judges erred in law in holding that "by transporting or delivering the parcel which contained the diamorphine as charged from 39 Lorong Paya Lebar to the provision shop the (appellant) had "trafficked" in the said drug within the meaning of "traffic" in section 2 of the Misuse of Drugs Act, 1973 ... and had thereby committed an offence under section 2 of the said Act". The argument is that this amounted to an alternative finding which is not permissible in law. It is to be observed that this holding of the trial judges is based on their finding of fact, namely, that "it was (the appellant) who carried the yellow netted bag from 39 Lorong Paya Lebar to the provision shop and left it on top of the show case" (see pages 22 to 24 of the Grounds of Decision). In our opinion, having regard to that finding of fact, this contention fails.

It is also contended that a miscarriage of justice resulted in that the trial judges, in giving full credence to three material prosecution witnesses who were given copies of their statements to the investigating officer and of their evidence at the Preliminary Inquiry to refresh their memory before giving evidence at the trial, failed to recognise that the evidence of these prosecution witnesses was based on written statements made long after the event. Before we deal with the relevant evidence on this point it is, we think, useful to consider the relevant English law. In *R.* v. *Richardson*[1] the Court of Appeal, Criminal Division, said at pages 776-777: —

"Leaving such points aside it is however necessary to consider what should be the general approach of the court to there being shown in this way to witnesses their statements — which were not 'contemporaneous' within the meaning of that word as normally applied to documents used to refresh memory. First, it is to be observed that it is the practice of the courts not to allow a witness to refresh his memory in the witness box by reference to written statements unless made contemporaneously. Secondly, it has been recognised in a circular issued in April 1969 with the approval of Lord Parker CJ and the judges of the Queen's Bench Division (the repositories of the common law) that witnesses for the prosecution in criminal cases are normally (though not in all circumstances) entitled, if they so request, to copies of any statements taken from them by police officers. Thirdly, it is to be noted that witnesses for the defence are normally, as is known to be the practice, allowed to have copies of their statements and refresh their memories from them at any time up to the moment they go into the witness box — indeed counsel for the appellant was careful not to submit that there was anything wrong about that. Fourthly, no one has ever suggested that in civil proceedings witnesses may not see their statements up to the time they go into the witness box. One has only to think for a moment of witnesses going into the box to deal with accidents which took place five or six years previously to conclude that it would be highly unreasonable if they were not allowed to see them. Is there then anything wrong in the witnesses in this case being offered an opportunity to see that which they were entitled to ask for and to be shown on request? In a case such as the present is justice more likely to be done if a witness may not see a statement made by him at a time very much closer to that of the accident?

Curiously enough, these questions are very bare of authority. Indeed the only case which has a direct bearing on this issue is one which was decided not in this country but on appeal in the Supreme Court of Hong Kong in 1966: *Lau Pak Ngam* v. *Reginam*, which is compactly reported. In the view of each member of this court it contains some sage observations, two of which are apt to be quoted. One of them is:

'Testimony in the witness box becomes more a test of memory than of truthfulness if witnesses are deprived of the opportunity of checking their recollection beforehand by reference to statements or notes made at a time closer to the events in question.'

The other:

'Refusal of access to statements would tend to create difficulties for honest witnesses but be likely to do little to hamper dishonest witnesses.'

With those views this court agrees. It is true that by the practice of the courts of this country a line is drawn at the moment when a witness enters the witness box and when giving evidence there in chief he cannot refresh his memory except by a document which, to quote the words of Phipson on Evidence, 'must have been written either at the time of the transaction or so shortly afterwards that the facts were fresh in his memory.' (Incidentally, that definition does provide a measure of elasticity and should not be taken to confine witnesses to an over-short period). It is moreover a practice which the courts can enforce; when a witness is in the box the court can see that he complies with that practice. The courts, however, must take care not to deprive themselves by new, artificial rules of practice of the best chances of learning the truth. The courts are under no compulsion unnecessarily to follow on a matter of practice the lure of the rules of logic in order to produce unreasonable results which would hinder the course of justice. Obviously it would be wrong if several witnesses were handed statements in circumstances which enabled one to compare with another what each had said. But there can be no general rule (which incidentally would be unenforceable, unlike the rule as to what can be done in the witness box) that witnesses may not before trial see the statements they made at some period reasonably close to the time of the event which is the subject of the trial. Indeed one can imagine many cases, particularly those of a complex nature, where such a rule would militate very greatly against the interests of justice."

We agree that there can be no general rule that witnesses may not before trial see the statements they made at some period reasonably close to the time of the event which is the subject of the trial. Indeed one can imagine many cases, particularly those where the material witnesses are persons such as police officers or narcotics officers whose daily duties consist of investigating activities of a criminal nature, where such a rule would militate very greatly against the interests of justice.

In England, in *R.* v. *Westwell*[2] the Court of Appeal, Criminal Division, has also held that the fact that the prosecution has failed to inform the defence that witnesses had seen their statements before giving evidence can be no bar to conviction. In our opinion the law is the same in Singapore.

In the present case, the defence knew, before the prosecution case concluded, that the witnesses had seen their statements. They cross-examined these witnesses who admitted the fact. They could have asked the court to consider discontinuing the trial on the ground of possible prejudice or risk of injustice to the appellant. This the defence did not do. The defence could also have made whatsoever points they wished to make with the court about the weight to be attached to the evidence of these prosecution witnesses. This they did not do. In any event, having regard to the lengthy cross-examination on this aspect of the case, we have no reason to doubt that the court, which consisted of two very experienced judges, in accepting the evidence of these witnesses as reliable and in acting on their evidence, had in mind the fact that they had refreshed their memory before giving their evidence. We reject this contention.

Another ground of appeal is that the trial judges were wrong in admitting in evidence and basing their conviction on the contents of the appellant's cautioned statement. After a trial within a trial, the trial judges found that the cautioned statement was a voluntary statement and rejected the appellant's allegations of assault. They also rejected a submission made that the cautioned statement should not be admitted because it was recorded through the interpretation of an interested person. Having regard to the reasons, which are set out in the grounds of decision, given by the trial judges for admitting in evidence the cautioned statement, we are not persuaded that they were wrong in so deciding. It is also apparent from the grounds of decision that the conviction of the appellant was not based entirely on the contents of the cautioned statement. The evidence of the material prosecution witnesses which the trial judges accepted as true clearly proved that it was the appellant who carried the parcel containing the drug, diamorphine, from No. 39 Lorong Paya Lebar to the provision shop and who placed the parcel on top of a show case in that shop.

Another contention before us is that the trial judges wrongly admitted in evidence and wrongly took into consideration the fact that the appellant was in possession of another three packets containing a brownish substance weighing 31.76 grams which on analysis was found to have a total diamorphine content of 11.84 grams. It is submitted, as it was before the trial court, that all evidence relating to the contents of these three packets was inadmissible as being prejudicial. We reject this submission and agree with the trial judges that the evidence relating to the contents of these three packets is admissible because it is relevant evidence.

Lastly, it is urged on behalf of the appellant that the conviction is against the weight of the evidence and the probability of the case. Having perused with care the verbatim record of the trial, we are satisfied that the trial judges were entitled and justified in accepting the evidence of the material prosecution witnesses and in rejecting the defence evidence and that on the evidence as a whole the trial judges arrived at a correct verdict.

For all these reasons the appeal is dismissed.

Appeal dismissed.

Solicitors: *David Marshall.*

LAI SENG FOOK v. TANG KONG LOW

[C.A. (Wee Chong Jin C.J., Chua and Kulasekaram JJ.) January 17, 1978]

[Singapore — Civil Appeal No. 10 of 1977]

Landlord and Tenant — Claim for possession — Whether appellant was respondent's tenant.

The respondent let the premises in 1954 to one Madam Tang who sublet the whole of it to several subtenants. The appellant, Madam Tang's son-in-law, paid the rent on her behalf and continued to do so after her death which was in 1967 or 1968. The rent receipt, however, was still in the name of the deceased. In May 1971, the respondent with the knowledge that Madam Tang had died, served a notice to quit addressed to "Madam Tang . . ." on the appellant determining the tenancy on June 30, 1971. Accompanying the notice to quit was a letter also addressed to Madam Tang